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No. 2022/054

November 18, 2022

TO COUNTY ASSESSORS:

**ACTIVE SOLAR ENERGY SYSTEM NEW CONSTRUCTION EXCLUSION:
SUNSET DATE EXTENSION**

In 1980, voters approved Proposition 7 (SCA 28) which amended section 2(c) of article XIII A of the California Constitution and gave the Legislature the authority to exclude construction of active solar energy systems from property tax assessment. This exclusion is implemented by Revenue and Taxation Code section 73, which provides that the term *newly constructed* does not include the construction or addition of any active solar energy system for property tax purposes.

Effective September 18, 2022, [Senate Bill 1340](#) (Stats. 2022, ch. 425) amends section 73 to extend the new construction exclusion for active solar energy systems from 2023-24 to the 2025-26 fiscal year and changes the repeal date from January 1, 2025, to January 1, 2027.

Thus, the new construction exclusion applies to any active solar energy system new construction in process or completed before January 1, 2027, unless this date is further extended. After the exclusion sunsets, any solar energy system previously excluded as new construction will remain excluded from property tax until the property changes ownership.

This letter supersedes previous advice regarding the sunset date that is contained in Assessors' Handbook Section 410, *Assessment of Newly Constructed Property* (May 2014), page 58; Letter To Assessors No. 2012/053, *Guidelines for Active Solar Energy Systems New Construction Exclusion*; Letter To Assessors No. 2013/042, *Solar Energy Systems: Construction in Progress and the Sunset Date*; and Letter To Assessors No. 2014/037, *Active Solar Energy System New Construction Exclusion: Sunset Date Extension*.

Enclosed is a copy of amended section 73, shown in *strikeout and italic* format. If you have any questions regarding the active solar energy new construction exclusion, please contact the County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ David Yeung

David Yeung
Deputy Director
Property Tax Department

DY:mc
Enclosure

Revenue and Taxation Code Section 73 as amended effective September 18, 2022, shown in strike out and italic format:

73. (a) Pursuant to the authority granted to the Legislature pursuant to paragraph (1) of subdivision (c) of Section 2 of Article XIII A of the California Constitution, the term "newly constructed," as used in subdivision (a) of Section 2 of Article XIII A of the California Constitution, does not include the construction or addition of any active solar energy system, as defined in subdivision (b).

(b) (1) "Active solar energy system" means a system that, upon completion of the construction of a system as part of a new property or the addition of a system to an existing property, uses solar devices, which are thermally isolated from living space or any other area where the energy is used, to provide for the collection, storage, or distribution of solar energy.

(2) "Active solar energy system" does not include solar swimming pool heaters or hot tub heaters.

(3) Active solar energy systems may be used for any of the following:

(A) Domestic, recreational, therapeutic, or service water heating.

(B) Space conditioning.

(C) Production of electricity.

(D) Process heat.

(E) Solar mechanical energy.

(c) For purposes of this section, "occupy or use" has the same meaning as defined in Section 75.12.

(d) (1) (A) The Legislature finds and declares that the definition of spare parts in this paragraph is declarative of the intent of the Legislature, in prior statutory enactments of this section that excluded active solar energy systems from the term "newly constructed," as used in the California Constitution, thereby creating a tax appraisal exclusion.

(B) An active solar energy system that uses solar energy in the production of electricity includes storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. In general, the use of solar energy in the production of electricity involves the transformation of sunlight into electricity through the use of devices such as solar cells or other solar collecting equipment. However, an active solar energy system used in the production of electricity includes only equipment used up to, but not including, the stage of conveyance or use of the electricity. For the purpose of this paragraph, the term "parts" includes spare parts that are owned by the owner of, or the maintenance contractor for, an active solar energy system that uses solar energy in the production of electricity and which spare parts were specifically purchased, designed, or fabricated by or for that owner or maintenance contractor for installation in an active solar energy system that uses solar energy in the production of electricity, thereby including those parts in the tax appraisal exclusion created by this section.

(2) An active solar energy system that uses solar energy in the production of electricity also includes pipes and ducts that are used exclusively to carry energy derived from solar energy. Pipes and ducts that are used to carry both energy derived from solar energy and from energy derived from other sources are active solar energy system property only to the extent of 75 percent of their full cash value.

(3) An active solar energy system that uses solar energy in the production of electricity does not include auxiliary equipment, such as furnaces and hot water heaters, that use a source of power other than solar energy to provide usable energy. An active solar energy system that uses solar energy in the production of electricity does include equipment, such as ducts and hot water tanks, that is utilized by both auxiliary equipment and solar energy equipment, that is, dual use equipment. That equipment is active solar energy system property only to the extent of 75 percent of its full cash value.

(e) (1) Notwithstanding any other law, for purposes of this section, "the construction or addition of any active solar energy system" includes the construction of an active solar energy system incorporated by the owner-builder in the initial construction of a new building that the owner-builder does not intend to occupy or use. The exclusion from "newly constructed" provided by this subdivision applies to the initial purchaser who purchased the new building from the owner-builder, but only if the owner-builder did not receive an exclusion under this section for the same active solar energy system and only if the initial purchaser purchased the new building prior to that building becoming subject to reassessment to the owner-builder, as described in subdivision (d) of Section 75.12. The assessor shall administer this subdivision in the following manner:

(A) The initial purchaser of the building shall file a claim with the assessor and provide to the assessor any documents necessary to identify the value attributable to the active solar energy system included in the purchase price of the new building. The claim shall also identify the amount of any rebate for the active solar energy system provided to either the owner-builder or the initial purchaser by the Public Utilities Commission, the State Energy Resources Conservation and Development Commission, an electrical corporation, a local publicly owned electric utility, or any other agency of the State of California.

(B) The assessor shall evaluate the claim and determine the portion of the purchase price that is attributable to the active solar energy system. The assessor shall then reduce the new base year value established as a result of the change in ownership of the new building by an amount equal to the difference between the following two amounts:

- (i) That portion of the value of the new building attributable to the active solar energy system.
- (ii) The total amount of all rebates, if any, described in subparagraph (A) that were provided to either the owner-builder or the initial purchaser.

(C) The extension of the new construction exclusion to the initial purchaser of a newly constructed new building shall remain in effect only until there is a subsequent change in ownership of the new building.

(2) The State Board of Equalization, in consultation with the California Assessors' Association, shall prescribe the manner, documentation, and form for claiming the new construction exclusion required by this subdivision.

(f) Notwithstanding any other law, the exclusion from new construction provided by this section shall remain in effect only until there is a subsequent change in ownership.

(g) This section applies to property tax lien dates for the 1999–2000 fiscal year to the ~~2023–24~~ 2025–26 fiscal year, inclusive.

(h) The amendments made to this section by the act that added this subdivision apply beginning with the lien date for the 2008–09 fiscal year.

Revenue and Taxation Code Section 73, effective September 18, 2022

(i) (1) This section shall remain in effect only until January 1, ~~2025~~, 2027, and as of that date is repealed.

(2) Active energy solar systems that qualify for an exclusion under this section prior to January 1, ~~2025~~, 2027, shall continue to be excluded on and after January 1, ~~2025~~, 2027, until there is a subsequent change in ownership.

(j) Section 41 shall not apply to the extension of the exclusion under this section made by the act adding this subdivision.